



COPPER CANYON LAW

43 East 1<sup>st</sup> Ave  
Mesa, Arizona 85210  
Office: (480) 833-3838  
Fax: (480) 833-3838  
[www.coppercanyonlaw.com](http://www.coppercanyonlaw.com)  
Timothy F. Coons (031208)  
[Timothy@coppercanyonlaw.com](mailto:Timothy@coppercanyonlaw.com)  
Spencer M. Coons (032874)  
[Spencer@coppercanyonlaw.com](mailto:Spencer@coppercanyonlaw.com)  
*Attorney for Plaintiff*

UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

Sam Sobh, an individual  
Plaintiff,

Case No.

vs.

Phoenix Graphix Inc., an Arizona  
Corporation; PGI/Phoenix Graphix, Inc.  
Profit Sharing Plan and Trust, an ERISA  
covered benefit plan; Brian Kotarski, an  
individual; Anne Kotarski, an individual,  
John Doe as the administrator of the PGI  
Plan

Defendants.

COMPLAINT

Plaintiff, Sam Sobh, alleges as follows:

**PRELIMINARY STATEMENT**

1. Plaintiff was an employee of Phoenix Graphix Inc. ("PGI")
2. Plaintiff is a beneficiary of a plan covered by the Employee Retirement Income Security Act ("ERISA.") 29 U.S.C. § 1001 *et seq.*
3. In accordance with the ERISA plan documentation Plaintiff has requested the benefits under the plan and was refused.
4. Plaintiff has requested the reason for his denial, rights for appeal, and the paperwork required under ERISA, these requests have been denied.

1           5. Plaintiff was terminated by PGI.

2           6. Plaintiff has requested payment of his final earned wages, including all  
3 earned bonuses.

4           7. Plaintiff has requested payout of his Paid Time Off.

5           8. PGI has refused to payout Plaintiff's final earned wages and Paid Time Off.

6                           **JURISDICTION AND VENUE**

7           9. The Claims asserted fall under 29 U.S.C. § 1001 *et seq.* and other applicable  
8 federal laws.

9           10. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331.

10          11. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and (c)  
11 because acts giving rise to the claims of the Plaintiff occurred within the District of  
12 Arizona, and Defendant regularly conducts business in and has engaged in the wrongful  
13 conduct alleged herein and, thus, is subject to personal jurisdiction in this judicial district.

14                           **PARTIES**

15          12. At all relevant times alleged herein, Plaintiff resided in the State of Arizona  
16 in Maricopa County.

17          13. Defendant Phoenix Graphix, Inc. ("PGI") as a corporation organized under  
18 the laws of Arizona, with its principal place of business in Maricopa County.

19          14. The Master Plan Document for the PGI Plan is attached hereto as "**Exhibit**  
20 **1**".

21          15. Defendant PGI / Phoenix Graphix, Inc. Profit Sharing Plan ("PGI Plan") is  
22 an employee benefit plan covered by ERISA.

23          16. It is believed that Brian Kotarski is the plan administrator as represented by  
24 Brian to Plaintiff on multiple occasions.

25          17. Since making requests for disbursements in compliance with the plan it has  
26 become unclear who is administering the plan.

27          18. An ERISA plan must be administered by a Plan Administrator.

19. Whoever the ERISA Plan Administrator is, benefits under the PGI Plan have been improperly denied to Plaintiff by the Plan Administrator.

20. John Doe, is an unknown individual that is acting as the administrator of the PGI Plan. Upon information and belief they are a resident of Maricopa County or otherwise are subject to the Personal Jurisdiction of this Court.

21. John Doe's identity is not certain at this time, upon discovery this Complaint will be amended as required.

### **FACTUAL ALLEGATIONS**

22. Plaintiff was employed by PGI for over a decade.

23. The relationship between Plaintiff and PGI became untenable and Plaintiff and PGI separated employment.

24. While employed with PGI, Plaintiff became a beneficiary of the PGI Plan.

25. The PGI Plan is a benefit plan subject to the requirements of ERISA.

26. Under the PGI Plan a beneficiary may request a distribution of funds for an immediate and heavy financial need for reasons enumerated in the plan. (*See*, Page 27 of Exhibit A).

27. Plaintiff has requested numerous times while experiencing heavy financial events to receive a distribution under the terms of the plan as enumerated in Section 7.1(A) rule and has been repeatedly denied.

28. The only reason for denial of the hardship distribution appears to be based on a summary plan document that contains provisions and ambiguous language that is not present in the master plan document.

29. In case of a conflict between the master plan document and the summary plan description, the master plan governs the plan.

30. As a result of these wrongful denials during periods of heavy financial need the Plaintiff is suffering Anxiety and Severe Depression.

31. Defendant has ignored Plaintiff's medical condition and the suffering caused by the wrongful actions.







1 WHEREFORE, Plaintiff respectfully requests that this Court grant the following  
2 relief in Plaintiff's favor and against Defendant:

- 3 A. For the Court to award all damages in an amount to be determined at  
4 trial;
- 5 B. For the Court to award incidental, compensatory and consequential damages  
6 in an amount to be determined at trial;
- 7 C. For the Court to award punitive damages for Defendant's knowing violation  
8 of the law in an amount to be determined at trial;
- 9 D. For the Court to award prejudgment and post-judgment interest;
- 10 E. For the Court to award Plaintiff's reasonable attorneys' fees and costs of the  
11 actions pursuant to any applicable law and all other causes of action set  
12 Forth herein; and
- 13 F. For such other relief as this Court shall deem just and proper.

14 **DEMAND FOR JURY TRIAL**

15 Plaintiff hereby requests that upon trial of this action, all issues be submitted to and  
16 determined by a jury except those issues expressly reserved by law for determination by  
17 the Court.

18  
19 RESPECTFULLY SUBMITTED this 26<sup>th</sup> day of September, 2019.

20 **COPPER CANYON LAW LLC**

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22 Spencer M. Coons  
23 43 East 1<sup>st</sup> Ave  
24 Mesa, Arizona 85210  
25 *Attorney for Plaintiff*  
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